

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ANNETTE BAKAY and RICHARD
BAKAY, wife and husband,

Plaintiffs,

v.

LAURIE A. YARNES, in her individual and
official capacity as CLALLAM COUNTY
ANIMAL CONTROL OFFICER; LAURIE
A. YARNES and TODD A. YARNES, a
marital community; TRACEY KELLAS, in
her individual and official capacity as
CLALLAM COUNTY ANIMAL
CONTROL OFFICER, and RANDOLPH J.
KELLAS, husband and wife, a marital
community; CLALLAM COUNTY ex rel.
CLALLAM COUNTY SHERIFF'S OFFICE
and CLALLAM COUNTY ANIMAL
CONTROL, a Washington municipal
corporation; CHARLES B. SCHRAMM, in
his individual and official capacity as
PRESIDENT OF HUMANE SOCIETY OF
CLALLAM COUNTY (UBI 601-141-356),
a Washington nonprofit corporation;
CHARLES B. SCHRAMM and JANE DOE
SCHRAMM, a marital community;
HUMANE SOCIETY OF CLALLAM
COUNTY (UBI 601-141-356), a
Washington nonprofit corporation; TEV
BARROS, D.V.M. (vt6853), individually;
TEV M. BARROS and JANE DOE
BARROS, a marital community; and DOES
1-10,

Defendants.

Case No. C04-5803RJB

ORDER GRANTING SECOND
MOTION TO AMEND
COMPLAINT

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2 This matter comes before the Court on Plaintiffs Annette Bakay and Richard Bakay's
3 Motion Seeking Leave to Amend Complaint. Dkt. 42. The Court has reviewed all documents
4 filed in support of and in opposition to this motion, has reviewed the entire file, and is fully
5 advised.

6 **I. BASIC and PROCEDURAL FACTS**

7 Plaintiffs' Complaint indicates this matter arose after Defendants wrongfully searched
8 their cattery, seized their cats and destroyed around 40 of the 70, or so, cats. Dkt. 1. The
9 remaining cats were returned to Plaintiffs and Defendants have not had any of Plaintiffs' cats in
10 their possession since 2002. *Id.* As a result of the seizure and destruction of the cats, Plaintiffs
11 have alleged violations of the Fourth, Fifth, and Fourteenth Amendments to the United States
12 Constitution as a basis for claims under 42 U.S.C. § 1983, and several state law claims. *Id.*
13 Plaintiffs now move to amend their Complaint, seeking prejudgment interest on liquidated sums.
14 Dkt. 42.

15 **II. DISCUSSION**

16 Fed. Rule of Civ. Pro. 15(a) provides that leave to amend "shall be freely given when
17 justice so requires." However, leave to amend a complaint should be denied where the
18 amendment would be futile. *Lipton v. Pathogenesis Corp.*, 284 F.3d 1027, 1038-1039 (9th Cir.
19 2002)(citing *Klamath-Lake Pharm. Ass'n v. Klamath Med. Serv. Bureau*, 701 F.2d 1276 (9th
20 Cir. 1983)).

21 Plaintiffs' proposed amendment, the addition of prejudgment interest on liquidated sums,
22 should be granted. In Washington, prejudgment interest is available on claims that are
23 liquidated. *Hansen v. Rothaus*, 107 Wn.2d 468, 473-72 (1986). Defendants have not shown
24 that they would be prejudiced in any manner by the amendment.
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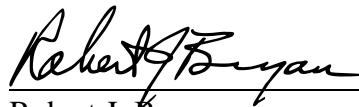
1 **III. ORDER**

2 Therefore, it is now

3 **ORDERED** that Plaintiffs' Motion to Amend Complaint (Dkt. 42) is **GRANTED**.

4 The Clerk of the Court is instructed to send uncertified copies of this Order to all
5 counsel of record and to any party appearing *pro se* at said party's last known address.

6 DATED this 20th day of May, 2005.

7 

8 Robert J. Bryan
9 U.S. District Judge